

Control Number: 49178



Item Number: 12

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FILED

APPLICATION OF VINEYARD RIDGE, §  
LLC AND VINEYARD RIDGE WATER §  
SUPPLY, LLC FOR SALE, TRANSFER, §  
OR MERGER OF FACILITIES AND §  
CERTIFICATE RIGHTS IN GILLESPIE §  
COUNTY

PUBLIC UTILITY COMMISSION  
2019 MAR 19 AM 10:00  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S FINAL RECOMMENDATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Final Recommendation in response to Order No. 3. In support thereof, Staff shows the following:

**I. BACKGROUND**

On February 6, 2019, Vineyard Ridge Water Supply, LLC (Purchaser) and the and Vineyard Ridge, LLC (Seller), (collectively Applicants) filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Gillespie County, Texas, pursuant to Texas Water Code Ann. (TWC) § 13.301 and the 16 Texas Administrative Code (TAC) § 24.239. Specifically, Purchaser seeks approval to acquire facilities and to transfer all of Seller's water CCN No. 13265. The requested area includes approximately 660 acres and 17 connections.

On March 25, 2019, Order No. 3 was issued, establishing a deadline of May 13, 2019, for Staff to file a final recommendation on the application. This pleading is therefore timely filed.

**II. RECOMMENDATION**

As supported by the attached memorandum of Roshan Pokhrel of the Water Utility Regulation Division, Staff has reviewed the documents filed by Applicants and recommends the application be approved.

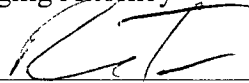
Dated: May 13, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney



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**DOCKET NO. 49178**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record May 13, 2019  
in accordance with 16 TAC § 22.74.



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Rustin Tawater

## PUC Interoffice Memorandum

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**To:** Rustin Tawater, Attorney  
Legal Division

**Thru:** Heidi Graham, Manager  
Water Utility Regulation Division

**From:** Roshan Pokhrel, Engineering Specialist  
Water Utility Regulation Division

**Date:** May 13, 2019

**Subject:** **Docket No. 49178, Application of Vineyard Ridge, LLC and Vineyard Ridge Water Supply, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Gillespie County**

On February 6, 2019, Vineyard Ridge Water Supply, LLC (Purchaser) and the Vineyard Ridge, LLC (Seller) (collectively, Applicants) filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Gillespie County, Texas, pursuant to Texas Water Code Ann. (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. Specifically, the Purchaser seeks approval to acquire facilities and to transfer water service area from the Seller under water Certificate of Convenience and Necessity (CCN) No. 13265. The requested area includes approximately 660 acres and 17 existing connections.

### Notice

The comment period ended on April 13, 2019, and no protests or opt-out requests were received.

### Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

#### ***TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.***

The Seller has a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under Vineyard Ridge Subdivision, PWS ID No 0860144, which is currently serving the requested area and will be transferred to the Purchaser. The Seller does not have any violations listed in the TCEQ database.

#### ***TWC § 13.246(c)(2) requires the Commission to consider the need for additional service in the requested area.***

There are 17 existing connections and 160 proposed connections to be added by 2020 within the requested area so there is a need for service.

#### ***TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail public utility of the same kind already servicing the proximate area.***

There will be no effect on any retail public utility servicing the proximate area as there are no other water providers in the area.

***TWC § 13.246(c)(4) requires the Commission to consider the ability of the Applicant to provide adequate service.***

Additional construction is necessary for the purchaser to serve the requested area. The Applicants have filed the construction approval letters from TCEQ in this docket. The Purchaser does not have any violations listed in the TCEQ database.

***TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.***

The Seller is currently serving the existing customers and its public water system has sufficient capacity, therefore, the feasibility of obtaining service from another adjacent retail public utility was not considered.

***TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.***

16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area. 16 TAC § 24.11(e) lists the financial tests.

The Purchaser meets the leverage test with a debt to equity ratio of 0.00, which is less than one because they do not have any long term debt.<sup>1</sup>

The Purchaser also meets the operations test. The owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The projected income statements show no operations and maintenance shortages for the next five years. Moreover, the Utility Facilities Construction and Conveyance Agreement<sup>2</sup> indicates that the Developer will pay for the construction of all facilities necessary to provide water service within the requested area. Thus, there are no shortages to cover.

***TWC §§ 13.246(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.***

This transaction eliminates the need for land owners to use individual wells. Thus, protecting the environment in the area from potential sources of contamination and encouraging regionalization of water service.

***TWC § 13.246(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.***

The Purchaser states in the application that the quality of service will remain at the same high level, as the water system will be operated through an operating agreement, after the sale is completed.

Staff recommends that the Applicants request meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer the service area under water CCN No. 13265 and facilities to the Purchaser and retain the Seller's CCN number is necessary for the service, accommodation, convenience and safety of the public.

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<sup>1</sup> Application at 21, Item No. 10 at 1

<sup>2</sup> Application at 27.

**Recommendation on approval of sale**

Pursuant to 16 TAC § 24.239(i), Staff recommends the Commission find that the transaction will serve the public interest and allow the Applicants to proceed with the proposed transaction. Staff notes there are no deposits held by Seller for the customers being served by Vineyard Ridge Subdivision. Staff further recommends that a public hearing is not necessary.